



**Ontario Energy Board
Commission de l'énergie de l'Ontario**

**DECISION AND ORDER ON COST
AWARDS**

EB-2017-0306 AND EB-2017-0307

**UNION GAS LIMITED
AND
ENBRIDGE GAS DISTRIBUTION INC.**

**Enbridge Gas Distribution Inc. and Union Gas Limited Application
for Amalgamation and Rate-Setting Mechanism**

BEFORE: Lynne Anderson
Presiding Member

Christine Long
Member

Cathy Spoel
Member

December 14, 2018

INTRODUCTION AND SUMMARY

This is a decision of the Ontario Energy Board (OEB) on cost claims filed with respect to the Union Gas Limited (Union Gas) and Enbridge Gas Distribution Inc. (Enbridge Gas) proceeding.

Enbridge Gas and Union Gas, jointly referred to as the applicants, filed an application dated November 2, 2017 with the OEB under section 43(1) of the *Ontario Energy Board Act, 1998*, for approval to effect the amalgamation of Enbridge Gas and Union Gas into a single company referred to as Amalco, and to establish a rate-setting framework.¹

The OEB granted the following parties intervenor status and cost award eligibility:

- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association Toronto (BOMA)
- Canadian Manufacturers and Exporters (CME)
- Consumers Council of Canada (CCC)
- Energy Probe Research Foundation (Energy Probe)
- Federation of Rental-housing Providers of Ontario (FRPO)
- Industrial Gas Users Association (IGUA)
- London Property Management Association (LPMA)
- Ontario Association of Physical Plant Administrators (OAPPA)
- Ontario Greenhouse Vegetable Growers (OGVG)
- School Energy Coalition (SEC)
- Vulnerable Energy Consumers Coalition (VECC)

On August 30, 2018, the OEB issued its Decision and Order in which it set out the process for intervenors to file their cost claims, for the applicants to object to the claims and for intervenors to respond to any objections raised by the applicants.

The OEB received cost claims from APPrO, BOMA, CME, CCC, Energy Probe, FRPO, IGUA, LPMA, OGVG, SEC and VECC. OAPPA's participation in the proceeding was limited and it did not file a cost claim. On October 5, 2018, the applicants filed a letter stating that there is a wide range in the amount of the cost claims, from a low of \$22,000 to high of \$160,000, with the average being \$73,000. The applicants asked the OEB to consider the amount of the cost claims in relation to the average claim.

¹ EB-2017-0306 and EB-2017-0307

BOMA in response argued that the average of the total cost claims should not be the most important factor. BOMA submitted that the main focus should be to determine the value of an intervenor's submission regardless of whether the cost claim is above or below the average.

Findings

The OEB has reviewed the claims filed to ensure that they are compliant with the OEB's *Practice Direction on Cost Awards*. The OEB approves the cost claims for all parties with the exception of BOMA and SEC. The OEB finds that the preparation time by the senior staff for both BOMA and SEC is excessive.

The OEB took into consideration the experience of legal counsel and consultants, and therefore the hourly tariff rate. The OEB also took into consideration the contribution, such as whether evidence was filed or whether an intervenor led discovery on distinct issues.

The preparation time for BOMA is reduced by 15% to 193.4 hours. The OEB recognizes that this is less preparation time than was approved for some other intervenors. The experience of the senior staff used by BOMA should enable more efficient preparation time. The total cost award for BOMA inclusive of HST is therefore \$93,393.43.

The preparation time for the senior staff of SEC is reduced by 20%. Senior staff of SEC comprised approximately 82% of the total preparation time. The OEB agrees that SEC took a leadership role on many of the issues, and therefore the OEB is approving preparation time that is 39% higher than any other intervenor. However, the OEB finds that there should have been a more efficient use of time by senior staff. The total cost award for SEC is therefore \$137,403.93 inclusive of HST.

The applicants submitted that the OEB should consider the amount of cost claims in relation to the average claim. The OEB has not taken this approach because it does not take into consideration the relative contribution of different intervenors.

The claim of CME requires a reduction of \$11.66 to comply with the government's *Travel, Meal and Hospitality Expenses Directive*. The OEB is reducing Energy Probe's claim by \$5,974.65 (a reduction of 17 hours at the OEB's tariff of \$330.00/hr, plus HST) due to incorrect filing of hours as per the submitted time sheet. Energy Probe confirmed that there was an error in the hours claimed by one of its consultants.

The OEB finds that the claims of AMPCO, CCC, FRPO, IGUA, VECC and the adjusted claims for BOMA, CME, Energy Probe and SEC are reasonable, and each of these claims shall be reimbursed by the applicants.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas Distribution Inc. and Union Gas Limited shall immediately pay the following amounts to the intervenors for their costs:

• Association of Power Producers of Ontario	\$21,815.15
• Building Owners and Managers Association Toronto	\$93,393.43
• Canadian Manufacturers and Exporters	\$55,512.24
• Consumers Council of Canada	\$72,342.60
• Energy Probe Research Foundation	\$87,667.61
• Federation of Rental-housing Providers of Ontario	\$99,082.42
• Industrial Gas Users Association	\$62,449.93
• London Property Management Association	\$43,256.40
• Ontario Greenhouse Vegetable Growers	\$37,882.12
• School Energy Coalition	\$137,403.93
• Vulnerable Energy Consumers Coalition	\$51,849.00

2. Pursuant to section 30 of the *Ontario Energy Board Act, 1998*, Enbridge Gas Distribution Inc. and Union Gas Limited shall pay the OEB's costs of, and incidental to, this proceeding immediately upon receipt of the OEB's invoice.

DATED at Toronto December 14, 2018

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary